IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T.& I.J.

CHAMBER SUMMONS NO.3 OF 2007

IN

PETITION NO.223 OF 2006

...

Dr.Arjun Sahgal & Anr. ...Petitioners

v/s.

Smt.Radhaka Bhargava & Ors. ...Caveators

...

Mr.K.G.Munshi i/b Divya Shah Associates for the Petitioner.

Mr.G.R.Mehta for the Applicant.

Mr.Sagheer A. Khan for the Caveators.

...

CORAM: D.K.DESHMUKH, J.

DATED: 25TH JANUARY,2007

P.C.:

This Chamber Summons has been taken out by three caveators by name Smt.Radhika Bhargava, Vir. Krishna Srivastava and Vikram Krishna Srivastava for condonation of delay in filing affidavit in support of the caveat. Though the Petitioner is served with the Chamber Summons, no affidavit in reply is filed. In the absence of any reply, accepting the averments made in the affidavit filed in support of the Chamber Summons at their face value, Chamber Summons is granted in terms of prayer clause (a) and (b).

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T.& I.J.

CHAMBER SUMMONS NO.93 OF 2006

IN

PETITION NO.223 OF 2006

...

Dr.Arjun Sahgal & Anr. ...Petitioners

v/s.

Smt.Radhaka Bhargava & Ors. ...Caveators

...

Mr.K.G.Munshi i/b Divya Shah Associates for the Petitioners/Applicants.

Mr.Sagheer A. Khan for the Caveators.

...

CORAM: D.K.DESHMUKH, J.

DATED: 25TH JANUARY,2007

P.C.:

1. This Chamber summons has been taken out by the Petitioners for removal of all the caveats. There are five caveats filed. The order of removal of caveats is sought on the ground that the affidavit in support of the caveats has not been filed within time. Out of the five caveators, three caveators namely Smt.Radhika Bhargava, Vir.Krishna Srivastava and Vikram Krishna Srivastava had taken out a Chamber Summons being Chamber Summons No.3 of 2007, and in view of the order passed in that Chamber Summons delay in filing affidavit filed in support of the caveat has been condoned. Therefore, so far as Radhika Bhargava, Vir.Krishna Srivastava and Vikram Krishna Srivastava are concerned, this Chamber Summons cannot be granted.

2. So far as Vijay Krishna Srivastava and Raj Moni Srivastava are concerned, Raj Moni Srivastava has filed an affidavit in support of the caveat on 18-8-2006. But perusal of that affidavit shows that

it cannot be termed as an affidavit filed in support of the caveat, because the grounds on which the objection to the Will of which probate is sought are not disclosed. There is no other affidavit filed by Raj Moni Srivastava. Therefore, the caveat filed by Raj Moni Srivastava is liable to be removed.

3. So far as Vijay Krishna Srivastava is concerned, he has filed affidavit in support of the caveat on 3-1-2007. Obviously, there is delay in filing this affidavit. In that affidavit he has disclosed some reasons for condonation of delay. The reason that is disclosed in the affidavit for condonation of delay really speaking cannot be described as sufficient cause. But since the caveator Vijay Krishna Srivastava is willing to pay substantial costs and as caveats of other three persons are already on record, in my opinion, it will be in the interest of justice to condone the delay in filing affidavit in support of the caveat by Vijay Krishna Srivastava. Office is accordingly directed to take on record the affidavit of Mr.Vijay Krishna Srivastava dated 3-1-2007 as the affidavit filed in support of the caveat filed by Mr.Vijay Krishna Srivastava, as delay in filing that affidavit is condoned. Therefore, this Chamber

Summons cannot be granted in relation to Vijay Krishna Srivastava also.

4. Chamber summons is, accordingly, disposed of in following terms:

(i) The caveat filed by Raj Moni Srivastava is dismissed.

(ii) The affidavit filed in support of the caveat by Vijay Krishna Srivastava is taken on record and he is directed to pay as and by way of costs, as observed above, Rs.15000/- (Rupees Fifteen Thousand only) to the Petitioners within a period of four weeks from today.

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